

SENATE BILL No. 443

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-4.

Synopsis: Advisory plan commissions. Specifies that the buffer zone of a municipality includes the unincorporated area two miles from the corporate boundaries of the municipality and located in the county that the municipality is located in or another county. Specifies that a municipality that lies partially within a county may designate the county plan commission as the municipal plan commission.

Effective: July 1, 2003.

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January 21, 2003, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 443

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 36-7-4-205, AS AMENDED BY P.L.216-1999,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 205. (a) ADVISORY. A municipal plan
4 commission shall adopt a comprehensive plan, as provided for under
5 the 500 series of the advisory planning law, for the development of the
6 municipality. For comprehensive plans adopted after July 1, 1999, if:
7 (1) the municipality provides municipal services to the contiguous
8 unincorporated area; or
9 (2) the municipal plan commission obtains the approval of the
10 county legislative body of each affected county;
11 the municipal plan commission may provide in the comprehensive plan
12 for the development of the contiguous unincorporated area, designated
13 by the commission, that is outside the corporate boundaries of the
14 municipality, and that, in the judgment of the commission, bears
15 reasonable relation to the development of the municipality.
16 (b) ADVISORY. Except as limited by the boundaries of
17 unincorporated areas subject to the jurisdiction of other municipal plan



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commissions, an area designated under this section may include any part of the contiguous unincorporated area **located** within two (2) miles from the corporate boundaries of the municipality **and within the county that the municipality is located in or in another county**. If, however, the corporate boundaries of the municipality or the boundaries of that contiguous unincorporated area include any part of the public waters or shoreline of a lake (which lies wholly within Indiana), the designated area may also include:

(1) any part of those public waters and shoreline of the lake; and

(2) any land area within two thousand five hundred (2,500) feet from that shoreline.

(c) ADVISORY. Before exercising their rights, powers, and duties of the advisory planning law with respect to an area designated under this section, a municipal plan commission must file, with the recorder of the county in which the municipality is located, a description or map defining the limits of that area. If the commission revises the limits, it shall file, with the recorder, a revised description or map defining those revised limits.

(d) ADVISORY. If any part of the contiguous unincorporated area within the potential jurisdiction of a municipal plan commission is also within the potential jurisdiction of another municipal plan commission, the first municipal plan commission may exercise territorial jurisdiction over that part of the area within the potential jurisdiction of both municipal plan commissions that equals the product obtained by multiplying a fraction, the numerator of which is the area within the corporate boundaries of that municipality and the denominator of which is the total area within the corporate boundaries of both municipalities times the area within the potential jurisdiction of both municipal plan commissions. Furthermore, this commission may exercise territorial jurisdiction within those boundaries, enclosing an area reasonably compact and regular in shape, that the municipal plan commission first acting designates.

(e) ADVISORY. If the legislative body of a county adopts a comprehensive plan and ordinance covering the unincorporated areas of the county, a municipal plan commission may not exercise jurisdiction, as provided in this section, over any part of that unincorporated area unless it is authorized by ordinance of the legislative body of the county. This ordinance may be initiated by the county legislative body or by petition duly signed and presented to the county auditor by:

(1) not less than fifty (50) property owners residing in the area involved in the petition;

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(2) the county plan commission; or

(3) the municipal plan commission.

Before final action on the ordinance by the county legislative body, the county plan commission must hold an advertised public hearing as required for other actions of the county plan commission under the advisory planning law. Upon the passage of the ordinance by the county legislative body and the subsequent acceptance of jurisdiction by the municipal plan commission, the municipal plan commission shall exercise the same rights, powers, and duties conferred in this section exclusively with respect to the contiguous unincorporated area. The jurisdiction of a municipal plan commission, as authorized under this subsection, may be terminated by ordinance at the discretion of the legislative body of the county, but only if the county has adopted a comprehensive plan for that area that is as comprehensive in scope and subject matter as that in effect by municipal ordinance.

(f) ADVISORY. Each municipal plan commission in a municipality located in a county having:

(1) a population of less than ninety-five thousand (95,000); and

(2) a county plan commission that has adopted, in accord with the advisory planning law, a comprehensive plan and ordinance covering the unincorporated areas of the county;

may, at any time, after filing notice with the county recorder and the county plan commission, exercise or reject territorial jurisdiction over any part of the area within two (2) miles of the corporate boundaries of that municipality and within that county, whether or not that commission has previously exercised that jurisdiction, if the municipality is providing municipal services to the area. Within sixty (60) days after receipt of that notice, the county plan commission and the county legislative body shall have the county comprehensive plan and ordinance revised to reflect the decision of the municipal plan commission exercising the option provided for in this subsection. If the municipality is not providing municipal services to the area, the municipal plan commission must obtain the approval of the county legislative body of each affected county before exercising jurisdiction.

(g) AREA. Wherever in the area planning law authority is conferred to establish a comprehensive plan or an ordinance for its enforcement, the authority applies everywhere:

(1) within the county that is outside the municipalities; and

(2) within each participating municipality.

(h) ADVISORY—AREA. Whenever a new town is incorporated in a county having a county plan commission or an area plan commission, that plan commission and its board of zoning appeals shall continue to

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1 exercise territorial jurisdiction within the town until the effective date
2 of a town ordinance:

3 (1) establishing an advisory plan commission under section
4 202(a) of this chapter; or

5 (2) adopting the area planning law under section 202(b) or 204 of
6 this chapter.

7 Beginning on that effective date, the planning and zoning functions of
8 the town shall be exercised under the advisory planning law or area
9 planning law, as the case may be.

10 SECTION 2. IC 36-7-4-410 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 410. (a) ADVISORY.

12 ~~The legislative body of any~~ A municipality located **entirely or**
13 **partially** in a county having an advisory plan commission may, by **an**
14 ordinance **adopted by the legislative body**, designate that county plan
15 commission as the municipal plan commission. A county plan
16 commission so designated has for that municipality all the powers and
17 duties granted, under the advisory planning law, to a municipal plan
18 commission, **including the power to provide in the comprehensive**
19 **plan of the municipality for the development of the unincorporated**
20 **area contiguous to the corporate boundaries of the municipality as**
21 **set forth in section 205 of this chapter.** Any municipality designating
22 a county plan commission as its municipal plan commission may
23 contract annually to pay the county a proportionate part of the expenses
24 that is properly chargeable to the planning service rendered that
25 municipality. The county shall appropriate these payments to the
26 county plan commission in addition to any sums budgeted for planning
27 purposes.

28 (b) ADVISORY. Whenever a municipality designates a county plan
29 commission as its municipal plan commission under subsection (a),
30 residents of that municipality, **including municipal residents who**
31 **reside in a county other than the county where the plan**
32 **commission is located**, are eligible to be appointed citizen members
33 of the commission under section 208(a)(5) of this chapter.

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